

REMARKS

Claims 1, 2, 8, 9, 15, 16, and 20 are pending in this application. Claims 4-7, 11-14 and 18-19 have been previously withdrawn, while claims 3, 10, and 17 were recently deemed to be withdrawn in the September 30, 2003, Office Action. Claim 15, 16, and 20 were allowed prior to entry of the amendments to claims 15 and 20.

The specification and drawings have been objected to. Claims 1, 2, 8, and 9 have been rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by Rosengart et al. (WO 99/44656). Claims 1 and 2 have been rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Davison et al. (WO 98/161657).

1. Election/Restriction

The Office action asserts that “claims 3, 10, 17 *as amended* have been withdrawn since they do not read on the elected embodiment.” (Emphasis added.) In response, the undersigned submits that the withdrawal of claims 3, 10, and 17 is improper and should be reconsidered. First, the language added by claims 3, 10, and 17 remains unchanged from when these claims were *originally* filed in the case on August 8, 2000, more than three years ago. Thus, the suggestion that the claims were amended is erroneous. Second, claims 3, 10, and 17 have been examined on multiple occasions over the last three years (see, e.g., 5/22/02 Office Action; 4/09/03 Office action). Consequently, there is no additional burden on the Examiner to continue to examine them. Moreover, it is also improper to withdraw them at this time due to their previous entry into the case. For each of these reasons, the undersigned requests reconsideration and re-entry of withdrawn claims 3, 10, and 17.

2. The Drawings

The Office action makes the generalization that “[i]t is clear that there is a fluid source and a hub, but it does not show the structural organization of the claimed elements,” and then specifically asserts that “the fluid source and the hub disposed about the first elongate shaft proximate the proximal end thereof must be shown or the feature(s) canceled from the claim(s).” In response, the undersigned submits that the claims do not currently use the word hub and that

claims 15 and 20, previously allowed and previously containing the words “fluid source,” have been amended to remove their use of these words. Accordingly, the undersigned submits that the alleged basis for any objection has been removed.¹

3. Objection to the Specification

The specification stands objected to for allegedly “failing to provide proper antecedent basis for the claimed subject matter...[a]pplicant is requested to provide antecedent basis for the radial rib in the specification.”

In response, the undersigned submits that there is proper antecedent basis for a radial rib in the specification. A discussion of an embodiment of the present invention having a radial rib can at least be found in the specification at page 6, lines 16-20. At least based on this disclosure, reconsideration of this objection is requested.

4. Rejection of Claim 1-2, and 8-9 Under 35 U.S.C. § 102.

Claims 1-2 and 8-9 stand rejected as being allegedly anticipated by Rosengart while claims 1-2 also stand rejected as being allegedly anticipated by Davison. As neither reference discloses or suggests “the second elongate shaft slidable within and independent of the interstitial member,” which is recited in claim 1 and claim 8, the undersigned submits that claims 1-2 and 8-9 are allowable over these references. As to Rosengart, the cylindrical platten 76 therein is secured to the inner tube and travels with it. See e.g., Rosengart Figs. 4-6; page 8, ln. 1. Thus, it is not slidable within or independent of a catheter as recited in the claims. As to Davison, the silicon rings 20, which act to dampen vibration, are coupled to the tube and travel back and forth with it. Consequently, Davison also fails to describe or suggest this language.

¹The undersigned wishes to emphasize that the claims are not limited to the embodiments in the drawings or the specification, but are, instead, intended to be given their broadest permissible interpretation.


CONCLUSION

Reconsideration in light of the above remarks is hereby requested.

Should the Examiner require any additional information regarding this Response, the Examiner is invited to contact the undersigned at (202) 220-4311.

Respectfully submitted,

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